

Notice of Allowability

Application No.

10/076,620

Applicant(s)

BEN-GAL ET AL.

Examiner

Ayal I. Sharon

Art Unit

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 9/6/07.
2. ☒ The allowed claim(s) is/are 1-11, 14-17, 19-38, 40-42 and 44-63.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 10/2/08
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Introduction

1. Claims 1-11, 14-17, 19-38, 40-42, and 44-63 of U.S. Application 10/076,620, originally filed on 02/19/2002 are currently pending.
2. The application claims priority to U.S. Priority Application 60/269,344, filed 02/20/2001.
3. Applicants' amendment filed 09/06/07 has amended claims 1, 11, 14-17, 19-20, 22, 29, 38, 40-42, 44-45, 47-48, and 50-51. Claims 12-13, 18, 39, and 43 have been cancelled. New claims 61-63 have been added.

Affidavits or Declarations Traversing Rejections, 37 CFR 1.132

4. The declaration under 37 CFR 1.132 filed 09/06/2007 is sufficient to overcome the 35 U.S.C. § 102(a) rejections of claims 1-24 and 30-60 based upon the Ben-Gal reference, and the 35 U.S.C. § 103(a) rejections of claims 25-29 based in part upon the Ben-Gal reference, as set forth in the last Office action. This declaration is considered to be sufficient because the applicants have provided evidence that corroborates the assertions made in the declaration.
5. The rejections are therefore withdrawn.

Claim Objections

6. In light of Applicants' amendment to claim 19 dated 09/06/2007, the previously-applied objection has been withdrawn.

EXAMINER'S AMENDMENT

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
8. Authorization for this examiner's amendment was given in a telephone interview with Mr. Martin Moynihan, Reg. No. 40,338 on 11/21/07.
9. Claim 20, line 3 in the application has been amended as follows:

The phrase

"said symbols"

has been changed to

---- symbols ----

Examiner's Statement of Reasons for Allowance

10. Claims 1-11, 14-17, 19-38, 40-42, and 44-63 are allowed.
11. The following is an examiner's statement of reasons for allowance for claims 1-11, 14-17, 19-38, 40-42, and 44-63.
12. The prior art referred to in this Reasons for Allowance is as follows:

- a. Ben-Gal, I. et al. "An Information Theoretic Approach for Adaptive Monitoring of Processes." ASI2000, The Annual Conf. of ICIMS- NOE and IIMB. 2000. ("**Ben-Gal**").

13. All 35 U.S.C. §§ 102(a) and 103(a) rejections based on the Ben-Gal reference have been withdrawn in light of the declaration under 37 CFR 1.132 filed on 09/06/2007.
14. All 35 U.S.C. § 101 rejections have been withdrawn in light of the amendments to independent claims 1, 19, and 51, which were filed on 09/06/2007. The Examiner notes that the Applicants have stated that the amendments to the claims are recited "as a Markush group." (See p.13 of the amendments filed on 09/06/2007).
15. All dependent claims are allowable because they depend from allowable independent claims 1, 19, or 51.
16. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ayal I. Sharon whose telephone number is (571) 272-3714. The examiner can normally be reached on Monday through Thursday, and the first Friday of a biweek, 8:30 am – 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez can be reached at (571) 272-3753. Any response to this office action should be faxed to (571) 273-8300, or mailed to:

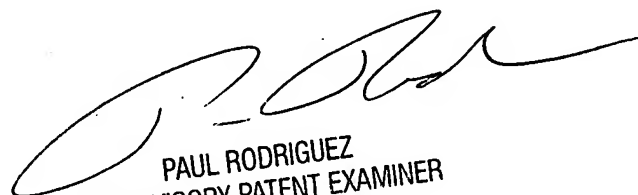
USPTO
P.O. Box 1450
Alexandria, VA 22313-1450

or hand carried to:

USPTO
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center 2100 Receptionist, whose telephone number is (571) 272-2100.

Ayal I. Sharon
Art Unit 2123
November 21, 2007



PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100